

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1235

Introduced by Assembly Member Hayashi

February 27, 2009

An act to amend Section 7582.2 of, *and to add Section 7583.47 to*, the Business and Professions Code, relating to private patrol operators.

LEGISLATIVE COUNSEL'S DIGEST

AB 1235, as amended, Hayashi. Private patrol operators.

The Private Security Services Act provides for the licensure and regulation of private patrol operators by the Bureau of Security and Investigative Services in the Department of Consumer Affairs. ~~Existing law exempts specified persons from the act.~~ *Under existing law, security guards and street patrolpersons are employed by private patrol operators to perform specified functions.*

~~This bill would make nonsubstantive, technical changes to that provision.~~

Existing law, except as specified, prohibits an employer from employing an employee for a work period of more than 5 hours per day without providing the employee with a meal period of not less than 30 minutes. Existing law, except as specified, also prohibits an employer from employing an employee for a work period of more than 10 hours per day without providing the employee with a 2nd meal period of not less than 30 minutes.

This bill would authorize registered security guards or streetpatrol persons and licensed private patrol operators to agree in writing to paid on-duty meal periods or unpaid, off-duty meal periods, if certain

conditions are met. The bill would also make nonsubstantive, technical changes to another provision of the Private Security Services Act.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature has determined that registered*
2 *security guards or street patrolpersons, employed by licensed*
3 *private patrol operators, function in an emergency service and*
4 *first responder capacity, and therefore it is the intent of the*
5 *Legislature to develop a scheme whereby these persons may make*
6 *alternative arrangements regarding meal breaks.*

7 ~~SECTION 1.~~

8 *SEC. 2. Section 7582.2 of the Business and Professions Code*
9 *is amended to read:*

10 7582.2. This chapter shall not apply to the following:

11 (a) A person who does not meet the requirements to be a
12 proprietary private security officer, as defined in Section 7574.1,
13 and is employed exclusively and regularly by any employer who
14 does not provide contract security services for other entities or
15 persons, in connection with the affairs of the employer only and
16 where there exists an employer-employee relationship if that person
17 at no time carries or uses any deadly weapon in the performance
18 of his or her duties. For purposes of this subdivision, “deadly
19 weapon” is defined to include any instrument or weapon of the
20 kind commonly known as a blackjack, slungshot, billy, sandclub,
21 sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any
22 other firearm, any knife having a blade longer than five inches,
23 any razor with an unguarded blade and any metal pipe or bar used
24 or intended to be used as a club.

25 (b) An officer or employee of the United States of America, or
26 of this state or a political subdivision thereof, while the officer or
27 employee is engaged in the performance of his or her official
28 duties, including uniformed peace officers employed part time by
29 a public agency pursuant to a written agreement between a chief
30 of police or sheriff and the public agency, provided the part-time
31 employment does not exceed 50 hours in any calendar month.

32 (c) A person engaged exclusively in the business of obtaining
33 and furnishing information as to the financial rating of persons.

1 (d) A charitable philanthropic society or association duly
2 incorporated under the laws of this state that is organized and
3 maintained for the public good and not for private profit.

4 (e) Patrol special police officers appointed by the police
5 commission of any city, county, or city and county under the
6 express terms of its charter who also under the express terms of
7 the charter (1) are subject to suspension or dismissal after a hearing
8 on charges duly filed with the commission after a fair and impartial
9 trial, (2) must be not less than 18 years of age nor more than 40
10 years of age, (3) must possess physical qualifications prescribed
11 by the commission, and (4) are designated by the police
12 commission as the owners of a certain beat or territory as may be
13 fixed from time to time by the police commission.

14 (f) An attorney at law in performing his or her duties as an
15 attorney at law.

16 (g) A collection agency or an employee thereof while acting
17 within the scope of his or her employment, while making an
18 investigation incidental to the business of the agency, including
19 an investigation of the location of a debtor or his or her property
20 where the contract with an assignor creditor is for the collection
21 of claims owed or due or asserted to be owed or due or the
22 equivalent thereof.

23 (h) Admitted insurers and agents and insurance brokers licensed
24 by the state, performing duties in connection with insurance
25 transacted by them.

26 (i) Any bank subject to the jurisdiction of the Commissioner of
27 Financial Institutions under Division 1 (commencing with Section
28 99) of the Financial Code or the Comptroller of Currency of the
29 United States.

30 (j) A person engaged solely in the business of securing
31 information about persons or property from public records.

32 (k) A peace officer of this state or a political subdivision thereof
33 while the peace officer is employed by a private employer to
34 engage in off-duty employment in accordance with Section 1126
35 of the Government Code. However, nothing herein shall exempt
36 such peace officer who either contracts for his or her services or
37 the services of others as a private patrol operator or contracts for
38 his or her services as or is employed as an armed private security
39 officer. For purposes of this subdivision, "armed security officer"

1 means an individual who carries or uses a firearm in the course
2 and scope of that contract or employment.

3 (l) A retired peace officer of the state or political subdivision
4 thereof when the retired peace officer is employed by a private
5 employer in employment approved by the chief law enforcement
6 officer of the jurisdiction where the employment takes place,
7 provided that the retired officer is in a uniform of a public law
8 enforcement agency, has registered with the bureau on a form
9 approved by the director, and has met any training requirements
10 or their equivalent as established for security personnel under
11 Section 7583.5. This officer may not carry a loaded or concealed
12 firearm unless he or she is exempted under the provisions of
13 subdivision (a) of Section 12027 of the Penal Code or paragraph
14 (1) of subdivision (b) of Section 12031 of the Penal Code or has
15 met the requirements set forth in Section 12033 of the Penal Code.
16 However, nothing herein shall exempt the retired peace officer
17 who contracts for his or her services or the services of others as a
18 private patrol operator.

19 (m) A licensed insurance adjuster in performing his or her duties
20 within the scope of his or her license as an insurance adjuster.

21 (n) Any savings association subject to the jurisdiction of the
22 Commissioner of Financial Institutions or the Office of Thrift
23 Supervision.

24 (o) Any secured creditor engaged in the repossession of the
25 creditor's collateral and any lessor engaged in the repossession of
26 leased property in which it claims an interest.

27 (p) A peace officer in his or her official police uniform acting
28 in accordance with subdivisions (c) and (d) of Section 70 of the
29 Penal Code.

30 (q) An unarmed, uniformed security person employed
31 exclusively and regularly by a motion picture studio facility
32 employer who does not provide contract security services for other
33 entities or persons in connection with the affairs of that employer
34 only and where there exists an employer-employee relationship if
35 that person at no time carries or uses any deadly weapon, as defined
36 in subdivision (a), in the performance of his or her duties, which
37 may include, but are not limited to, the following business
38 purposes:

39 (1) The screening and monitoring access of employees of the
40 same employer.

1 (2) The screening and monitoring access of prearranged and
2 preauthorized invited guests.

3 (3) The screening and monitoring of vendors and suppliers.

4 (4) Patrolling the private property facilities for the safety and
5 welfare of all who have been legitimately authorized to have access
6 to the facility.

7 (r) The changes made to this section by the act adding this
8 subdivision during the 2005–06 Regular Session of the Legislature
9 shall apply as follows:

10 (1) On and after July 1, 2006, to a person hired as a security
11 officer on and after January 1, 2006.

12 (2) On and after January 1, 2007, to a person hired as a security
13 officer before January 1, 2006.

14 *SEC. 3. Section 7583.47 is added to the Business and*
15 *Professions Code, to read:*

16 *7583.47. (a) Notwithstanding any other provision of law, a*
17 *registered security guard or street patrolperson and a licensed*
18 *private patrol operator may agree to paid, on duty meal periods*
19 *if the following conditions are met:*

20 *(1) The security guard or street patrolperson and the private*
21 *patrol operator voluntarily enter into a written agreement for a*
22 *paid, on-duty meal period which includes a statement that the*
23 *security guard or street patrolperson may revoke the agreement,*
24 *in writing, without a penalty.*

25 *(2) The agreement authorizes the security guard or street*
26 *patrolperson to take a 30 minute paid, on-duty meal period during*
27 *every shift of five hours or more.*

28 *(3) The on-duty meal period is fully paid and counted as time*
29 *worked.*

30 *(4) If the security guard or street patrolperson works a shift of*
31 *10 hours or more, the employee may take a second paid, on-duty*
32 *meal period.*

33 *(b) Notwithstanding any other provision of law, a registered*
34 *security guard or street patrolperson and a licensed private patrol*
35 *operator may agree to unpaid, off-duty meal periods if the*
36 *following conditions are met:*

37 *(1) The security guard or street patrolperson and the private*
38 *patrol operator voluntarily enter into a written agreement for an*
39 *unpaid, off-duty meal period which includes a statement that the*

1 security guard or street patrolperson may revoke the agreement,
2 in writing, without a penalty.

3 (2) The agreement authorizes the security guard or street
4 patrolperson to take a 30 minute unpaid, off-duty meal period
5 during every shift of five hours or more.

6 (3) The off-duty meal period is not paid and not counted as time
7 worked.

8 (4) If the security guard or street patrolperson works a shift of
9 10 hours or more, the employee may take a second unpaid, off-duty
10 meal period.